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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/705,248

11/12/2003

Jeffrey Alan Middlesworth

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

05/01/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/705,248	<b>Applicant(s)</b> MIDDLESWORTH ET AL.	
	<b>Examiner</b> Ula C. Ruddock	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20-22, 26-29, 34, 37 and 39-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 45-50 is/are allowed.
- 6) ☒ Claim(s) 20-22, 26-28, 34 and 39-44 is/are rejected.
- 7) ☒ Claim(s) 29, 37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The Examiner has carefully considered Applicant's response filed January 17, 2008.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

3. Claims 20-22, 26-28, 34, 39, 40, 41, 42, 43, 44, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nissing (US 6,270,875). Nissing discloses a wiping article having a first layer and a second plastic film layer. The first layer has an extensibility greater than the film layer. The first layer can be a dry creped web of cellulosic fibers and the second layer can be an apertured, three-dimensional plastic film (abstract). The first layer is joined to the second layer via an adhesive bond pattern (col 4, ln 10-57). The first layer is a nonwoven layer that has at least 25% extensibility and can be made of cellulosic fibers (i.e. wood pulp). The first layer is preferably creped (col 6, ln 21-43). The second layer is preferably apertured and can be formed from a polyethylene or polypropylene film material (col 7, ln 21-26). The wipe may comprise a third layer, which can also be a cellulosic nonwoven creped layer (col 8, ln 51-67 to col 9, ln 1-10). Nissing discloses the claimed invention except for the teaching that the bonding points occur between a plurality of points on the first surface of the elastic layer and a plurality of high points on the nonwoven layer.

It would have been obvious to one having ordinary skill in the art to have limited the bonding to a plurality of points on the first surface of the elastic layer and a plurality of high points

on the nonwoven layer, motivated by the desire to create a composite that has increased dimensional stability and lamination strength.

Regarding claim 39, in the absence of unexpected results it would have been obvious to one having ordinary skill in the art to have made the perforated elastic layer have an elongation to break of at least 50%, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. In the present invention, one would have optimized the elongation to break motivated by the desire to create a composite that has the desired pliability.

***Rejection is maintained.***

#### ***Response to Arguments***

4. Applicant's arguments filed January 17, 2008, have been fully considered but they are not persuasive for the reasons set forth. Applicant argues that Nissing's film layer would not inherently have some degree of elasticity. As set forth in the previous Office Action, Applicant has not set forth a quantity of elasticity. Furthermore, because Nissing's film layer is apertured, there would be some inherent elasticity. Therefore, the rejection is maintained.

#### ***Allowable Subject Matter***

5. Claims 29 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 45-50 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: no prior art was found to teach the claimed limitations in independent claims 45 and 48.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ula C Ruddock/  
Primary Examiner, Art Unit 1794